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Timing is legal issue in Iran act

J By Douglas Frantz
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WASHINGTON—The legality of President Reagan's decision to authorize secret shipments of military goods to Iran—perhaps the most sensitive policy initiative of his career—rests on a disputed interpretation of the National Security Act.

A senior administration official acknowledged Thursday that Reagan approved secret talks with Iranian leaders 18 months ago and that in January he signed an order authorizing covert shipments of military goods to Iran without notifying Congress.

The decision not to notify Congress has generated a serious controversy that will be played out in coming months on Capitol Hill, where at least two congressional committees are expected to investigate the administration's actions.

The disclosures also have led to a review of pending court cases involving illegal shipments of weapons to Iran by arms dealers.

Amendments adopted in 1980 to the National Security Act of 1947 require the President to give congressional leaders and the House and Senate Intelligence Committees advance word of covert activities in foreign countries.

But they also allow the President to withhold advance word in certain cases, so long as he later tells Congress "in a timely fashion."

In defending the decision not to tell Congress in advance, the administration official said: "The reasons were because of the sensitivity of the operation and the safety of the hostages—the lives that were involved, both our own plus Iranian."

The definition of "timely fashion" is expected to be at the center of the congressional and legal debate.

"We do not consider 18 months timely," said a congressional intelligence source.

The Senate and House Intelligence Committees are reviewing the administration's secret dealings with Iranian leaders, and the Senate panel also is examining the administration's support for Nicaraguan rebels.

Jay Peterzell, a research associate at the Center for National Security Studies here, said: "The first question is whether this was an intelligence activity rather than a diplomatic activity. They do not have to notify Congress on diplomatic activities. But it clearly becomes an intelligence activity once you start shipping arms. That is covert."

He added that the only other known instance in which a president kept Congress in the dark about an intelligence operation was the ill-fated attempt to rescue the American hostages in Iran in 1980.

"That was a military mission which was completed in a finite time period, with secrecy as a key element," said Peterzell. "There was a stronger rationale for not telling anyone."

"In the case of the shipments to Iran, the administration's actions appear to be inconsistent with the spirit of the oversight act, but not with the letter of the law," said Peterzell, whose group is often critical of the administration. "It raises the issue of what limits there are on the circumstances in which you can give no notice to Congress. There are no hard and fast answers as to what is timely."

Peterzell and others also said there are questions about whether the President violated sections of the Arms Export Control Act, which requires a report to Congress on shipments of defense articles to other countries if their value exceeds \$50 million. The administration also is required to report any transfers of American weapons from a bona fide recipient to a third country.

The administration has not put a monetary value on the military goods shipped to Iran under U.S. auspices. But the senior official acknowledged that another country, which he refused to identify, had provided defense material to Iran with U.S. approval in 1985.

Other U.S. officials have identified that country as Israel.

Atty. Gen. Edwin Meese, the administration's top legal official, was involved in the planning of the secret Iranian dealings from the outset, according to the administration official.

"On all operations of this kind, the attorney general passes on the legality and there was no exception in this case," the official told reporters at a briefing before the President's speech Thursday night.

Terry Eastland, a spokesman for Meese, declined to comment on the attorney general's role.

But a veteran Justice Department prosecutor said the administration's dealings with Iran may affect several pending cases of illegal attempts to export arms to the Mideast nation.

The prosecutor, who spoke on the condition that he not be identified, said the most immediate impact is likely to be on a case in New York in which 17 people, including a retired Israeli general, are accused of conspiring to ship \$2.5 billion worth of arms to Iran.

A senior official of the U.S. Customs Service, which has investigated most of the arms cases, said the disclosures of administration policy have prompted a review of pending investigations at Customs headquarters and may result in the ending of some probes.